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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/652,113 | 08/28/2003 | Ernest W. Moody | MOODY 41 | 1843 |
| 24258 | 7590 | 07/26/2004 | EXAMINER | |
| JOHN EDWARD ROETHEL 2290 S. JONES BLVD. #100 LAS VEGAS, NV 89146 | | | LAYNO, BENJAMIN | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3712 | |

DATE MAILED: 07/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/652,113

Applicant(s)

MOODY, ERNEST W.

Examiner

Benjamin H. Layno

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>072204</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crawford in view of Awada 943'.

The patent to Crawford discloses a draw poker game. To play Crawford's poker game a player places a wager which is allocated among an initial five-card poker hand and three card subsets, col. 5, lines 30-52. A five-card poker hand is displayed to a player, Fig 5. If the five-card poker hand comprises a predetermined arrangement of cards, the player is provided with an award based on a pay table 32. Also see col. 3, lines 60-67 and col. 4, lines 39-43. If a four-card subset of the five-card poker hand comprises a predetermined arrangement of cards, the player is provided with an award, see col. 3, lines 13-21. Also see Fig. 2 showing the different four-card subsets 14a-14b. 14a discloses a first four-card subset consisting of card 1, card 2, card 3 and card 4. 14e discloses a second four-card subset consisting of card 2, card 3, card 4 and card 5. If a three-card subset of the five-card poker hand comprises a predetermined arrangement of cards, the player is provided with an award based on a third pay table 28, 30. Also see Fig. 1 showing the different three-card subsets 12a-12j. 12a discloses

a first three-card subset consisting of card 1, card 2 and card 3. 12g discloses a second three-card subset consisting of card 2, card 3 and card 4. 12j discloses a third three-card subset consisting of card 3, card 4 and card 5. Crawford does not disclose a second pay table for the four-card subsets, however, based on the pay tables 28, 30 and 32 for the five-card poker hand and the three-card subsets, it would have been inherent or obvious to provide a pay table for the four-card subsets.

The patent to Awada 943' discloses a **stud** poker game wherein each player is dealt three cards and four community cards are dealt in the center of the table. Each player plays a three-card **stud** poker, a five-card **stud** poker and a seven-card **stud** poker using their three dealt cards and the four community cards. In view of such teaching, it would have been obvious to make Crawford's draw poker game a **stud** poker game. This modification would have eliminated the draw step in Crawford's game shortening playing time and increasing profits and revenue.

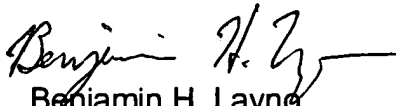
3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Kal and Webb 145' both disclose poker games wherein a three-card poker game, a five-card poker game and a seven-card poker game are played using three different subsets of cards from the same hand. The patents to Awada 550' and Awada 643' both disclose cards games wherein each player plays three different card games using three different subsets of cards from the same hand.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (703) 308-1815. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Benjamin H. Layno
Primary Examiner
Art Unit 3712

bhl